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09/955,417	09/18/2001	George Washington Baughman III	KEG 2-001	1087

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Gerald L. Smith  
Mueller and Smith, LPA  
7700 Rivers Edge Drive  
Columbus, OH 43235

EXAMINER

A, PHI DIEU TRAN

ART UNIT PAPER NUMBER

3637

DATE MAILED: 09/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/955,417

**Applicant(s)**

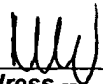
BAUGHMAN ET AL.

**Examiner**

Phi D A

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 6/24/04.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

***Response to Arguments***

1. In view of the Appeal Brief filed on 5/28/04, PROSECUTION IS HEREBY REOPENED. Claims 1-26 are rejected as set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-17 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

For a claim to be statutory under 35 USC 101 the following two conditions must be met:

1) In the claim, the practical application of an algorithm or idea result in a useful, concrete, tangible result, AND

2) The claim provides a limitation in the technological art that enables a useful, concrete, tangible result.

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As to the technology requirement, note MPEP Section iV 2(b). Also note In Re Waldbaum, 173USPQ 430 (CCPA 1972) which teaches “useful arts” is synonymous with “technological arts”. In re Musgrave, 167USPQ 280 (CCPA1970), In re Johnston, 183USPQ 172 (CCPA 1974), and In re Toma, 197USPQ 852 (CCPA 1978), all teach a technological requirements.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The limitation “ as said horizontally disposed ..support” is indefinite.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Feleppa (5700102) in view of Thornton (3673720), and Reilley (5120941).

Feleppa (figure 88) show a system comprising a retailing geometric boundary at a paved surface (figure 89), a plurality of first poles of first height, the poles defining a geometric pattern within a detail region boundary, each having a first top and an insertion end (the end at the

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bottom of the vertical posts), the pole having a height establishing an overhead signage sight height from the surface to the first top, a merchandise information carrying sign suspended from adjacent the tops of the poles (the sign with FRESH PRODUCE) and extending downwardly therefrom to a lower border, interconnecting a pole tope with a next adjacent said pole top with a horizontally disposed signage support to define a three dimensional retailing region, providing flag support structure at the top of the poles (figure 88), providing a plurality of flag assemblies (the assembly of the flag connecting to the poles), positioning the flag assemblies within the .

Feleppa does not show a plurality of anchors fixed beneath the surface, at least two of the anchors being mutually spaced apart a bay distance, each said anchor including vertically disposed sleeve having a support distance located below the surface and extending to an engagement surface, the insertion end of the pole configured for sliceable insertion to the extent of the support distance within a said sleeve and extensible when inserted within the sleeve, the first poles defining an entrance region and a shopper aisle extending therefrom to a shopper exit region, a number of merchandizing bays extending between adjacent said poles from at least a portion of the geometric boundary to the shopper aisle, suspending merchandise information signage from the signage support at said boundary along the bays, the signage extending downwardly from the signage support within a shopper line of sight region to a lower border adjacent a bay access elevation above the surface, positioning the merchandise within the bay below the bay access elevation and locating the merchandise in correspondence with the merchandise information signage, providing a cash/wrap region adjacent the shopper aisle.

Thornton shows a plurality of anchors (57) fixed beneath a surface to slidably receive poles (58, 54) extended therefrom, at least two of the anchors being mutually spaced apart a bay

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distance (the area between the poles), each said anchor including vertically disposed sleeve having a support distance located below the surface and extending to an engagement surface, the insertion end of the poles (58, 54) inserted in supporting relationship within a select said anchor sleeve to an extent wherein the insertion end is in freely abutable contact with the sleeve engagement surface.

Reilley et al shows a plurality of supporting posts having merchandise information signage (figure 2) from a signage support at a boundary, bays (where merchandise 28 locates) forming between the posts, the merchandise being positioned within the bay below the bay access elevation above a surface.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Feleppa's structure to show a plurality of anchors fixed beneath the surface, at least two of the anchors being mutually spaced apart a bay distance, each said anchor including vertically disposed sleeve having a support distance located below the surface and extending to an engagement surface, the insertion end of the pole configured for slideable insertion to the extent of the support distance within a said sleeve and extensible when inserted within the sleeve as taught by Thornton, the first poles defining an entrance region and a shopper aisle extending therefrom to a shopper exit region, a number of merchandizing bays extending between adjacent said poles from at least a portion of the geometric boundary to the shopper aisle, suspending merchandise information signage from the signage support at said boundary along the bays as taught by Reilley, the signage extending downwardly from the signage support within a shopper line of sight region to a lower border adjacent a bay access elevation above the surface, positioning the merchandise within the bay below the bay access elevation and locating

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the merchandise in correspondence with the merchandise information signage as taught by Reilley et al, providing a cash/wrap region adjacent the shopper aisle because having anchors slidably receiving the poles in the ground would provide secured vertical support for the vertical poles as taught by Thornton, having the poles defining an entrance and exit shopper region would have been an obvious to one having ordinary skill in the art as it is well known that a shopping area requires an entrance and exit area, having a cash/wrap region adjacent the shopper aisle would have been obvious to one having ordinary skill in the art as it is well known to have a cashier/pay area to finalize a purchase as shown in many commercial stores, having merchandizing bays extending between adjacent the poles as taught by Reilley from at least a portion of the geometric boundary to shopper aisle would have been obvious to one having ordinary skill in the art as bay area with signage information is a well known convention method of presenting and locating product in a store as shown in many commercial stores (Home depot, Lows, especially the gardening section), having the signage extending within a shopper line of sight region would have been obvious to one having ordinary skill in the art as it would have been an obvious matter of engineering design choice to have a signage within a shopper's line of sight region as it would attract the customer's attention to the information better.

Feleppa as modified shows all the claimed limitations. The claimed method steps of presenting merchandise would have been the obvious method steps of presenting Feleppa's merchandise.

Per claims 16-17, Feleppa as modified inherently shows a plurality of anchors providing said sleeves as each having a base plate at an elevation with respect to the paved surface selected to effect a linear alignment of the first pole tops, a plurality of anchors providing the anchors in

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regularly spaced relationship defining a geometric grid, retailing boundary defining the boundary by selecting anchors with the geometric grid.

Feleppa as modified shows all the claimed limitations. The claimed method steps of presenting merchandise would have been the obvious method steps of presenting Feleppa's merchandise.

3. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Feleppa in view of Thornton and Reilley et al.

Feleppa as modified shows all the claimed limitations except for the flag assemblies being positioned within the flag support structures.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Feleppa's modified structure to show the flag assemblies being positioned within the flag support structures because having flags with flag assemblies on support structure would enable the secured fastening of the flags on the supporting structures.

Feleppa as modified shows all the claimed limitations. The claimed method steps of presenting merchandise would have been the obvious method steps of presenting Feleppa's merchandise.

4. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Feleppa in view of Thornton and Reilley et al as applied to claim 2 above, and further in view of Glass.

Feleppa as modified shows all the claimed limitations except for the flag assemblies being provided as pennants formed with nylon.

Glass discloses banner made of nylon.



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It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Feleppa's modified structure to show the flag assemblies being provided as pennants formed with nylon because having the flags as pennants formed with nylon would have been obvious to one having ordinary skill in the art as pennants is a well-known flag shape and nylon is a well known flag material as shown by Glass.

Feleppa as modified shows all the claimed limitations. The claimed method steps of presenting merchandise would have been the obvious method steps of presenting Feleppa's merchandise.

5. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Feleppa in view of Thornton and Reilley et al.

Feleppa as modified shows all the claimed limitations except for a canopy mounted with the poles at the cash/wrap region.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Feleppa's modified structure to show a canopy mounted with the poles at the cash/wrap region because it would enable the sheltering of the cashier and register from the elements.

Feleppa as modified shows all the claimed limitations. The claimed method steps of presenting merchandise would have been the obvious method steps of presenting Feleppa's merchandise.

6. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Feleppa in view of Thornton and Reilley et al.

Feleppa as modified shows all the claimed limitations except for the step of suspending merchandise information signage establishes the bay access elevation as about eight feet.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Feleppa's modified structure to show the step of suspending merchandise information signage establishes the bay access elevation as about eight feet because it would have been an obvious matter of engineering design choice to suspend the signage at different height to establish bay access elevation to accommodate customers and increase customer's attention to the information and product presented in an effort to increase sales.

Feleppa as modified shows all the claimed limitations. The claimed method steps of presenting merchandise would have been the obvious method steps of presenting Feleppa's merchandise.

7. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Feleppa in view of Thornton and Reilley et al.

Feleppa as modified shows all the claimed limitations except for the step for providing the poles with a said overhead signage sight height providing said sight height within a range of between about 10 feet and 12 feet.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Feleppa's modified structure to show the step for providing the poles with a said overhead signage sight height providing said sight height within a range of between about 10 feet and 12 feet because it would have been an obvious matter of engineering design choice to choose a pole with a proper height to suspend the signage at a desired height to accommodate

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customers and increase customer's attention to the information and product presented in an effort to increase sales.

Feleppa as modified shows all the claimed limitations. The claimed method steps of presenting merchandise would have been the obvious method steps of presenting Feleppa's merchandise.

8. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Feleppa in view of Thornton and Reilley et al.

Feleppa as modified shows all the claimed limitations except for the step for providing the anchors at mutual spacing within a range from about 3 feet to about 20 feet.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Feleppa's modified structure to show the step for providing the anchors at mutual spacing within a range from about 3 feet to about 20 feet because it would have been an obvious matter of engineering design choice to space the anchors a certain distance from each other to achieve the optimum supporting strength and cost.

Feleppa as modified shows all the claimed limitations. The claimed method steps of presenting merchandise would have been the obvious method steps of presenting Feleppa's merchandise.

9. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Feleppa in view of Thornton and Reilley et al as applied to claim 1 above and further in view of Howes Jr.

Feleppa as modified shows all the claimed limitations except for the step of providing a plurality of covers each being extensible over a said anchor sleeve adjacent the surface, attaching the cover over each said sleeve when not engaged with a said pole.

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Howes Jr. shows a plurality of covers (14) covering a plurality of sleeves when the sleeve is not engaged with the poles to cover the holes against debris and people tripping.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Feleppa's modified structure to show the step of providing a plurality of covers each being extensible over a said anchor sleeve adjacent the surface, attaching the cover over each said sleeve when not engaged with a said pole because it would allow for the covering of the anchoring sleeve once the poles are removed, and covering the sleeves would prevent any tripping over the hole in the sleeve and protect the sleeve against water and rain as taught by Howes Jr.

Feleppa as modified shows all the claimed limitations. The claimed method steps of presenting merchandise would have been the obvious method steps of presenting Feleppa's merchandise.

10. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Feleppa in view of Thornton and Reilley et .

Feleppa as modified shows all the claimed limitations except for the step of positioning the poles defining the retail floor pattern as having the entrance region, the shopper aisle and exit region with widths of about 10 feet.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Feleppa's modified structure to show the step of positioning the poles defining the retail floor pattern as having the entrance region, the shopper aisle and exit region with widths of about 10 feet because it would have been an obvious matter of engineering design

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choice to have the width at about 10 feet to accommodate the desired store size for customers and merchandizes displayed.

Feleppa as modified shows all the claimed limitations. The claimed method steps of presenting merchandise would have been the obvious method steps of presenting Feleppa's merchandise.

11. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Feleppa in view of Thornton and Reilley et al as applied to claim 1 above and further in view of Wheeler (4830382).

Feleppa as modified shows all the claimed limitations except for the step for interconnecting each said pole top with the next adjacent pole top being carried out with a tensioned cable assembly as said horizontally disposed signage support.

Wheeler shows the step of interconnecting each pole top with the next adjacent pole top by tensioned cable assembly.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Feleppa's modified structure to show the step for interconnecting each said pole top with the next adjacent pole top being carried out with a tensioned cable assembly as said horizontally disposed signage support as taught by Wheeler because it would enable the easy adjustment of the cable assembly to have a taut connection between the poles.

Feleppa as modified shows all the claimed limitations. The claimed method steps of presenting merchandise would have been the obvious method steps of presenting Feleppa's merchandise.

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12. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Feleppa in view of Thornton and Reilley et as applied to claim 1 above and further in view of Wheeler (4830382).

Feleppa as modified shows all the claimed limitations except for the steps of providing a horizontally disposed lower signage support interconnecting a said pole with the next adjacent pole at about the bay access elevation, coupling the horizontally disposed signage support with the signage adjacent the lower border.

Wheeler shows the steps of providing a horizontally disposed lower signage support (96) interconnecting a said pole with the next adjacent pole, coupling the horizontally disposed signage support with the signage adjacent the lower border.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Feleppa's modified structure to show the steps of providing a horizontally disposed lower signage support interconnecting a said pole with the next adjacent pole at about the bay access elevation, coupling the horizontally disposed signage support with the signage adjacent the lower border as taught by Wheeler because it would enable the easy mounting and supporting of a signage on the poles.

Feleppa as modified shows all the claimed limitations. The claimed method steps of presenting merchandise would have been the obvious method steps of presenting Feleppa's merchandise.

13. Claims 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Feleppa in view of Thornton, Wheeler and Reilley et as applied to claim 11 above and further in view of Johnson (4720204).

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Feleppa as modified shows all the claimed limitations except for the steps of coupling the horizontally disposed signage support being carried out with break away couplers configured to break in response to the assertion of a predetermined wind load upon the signage.

Johnson discloses lower coupler (26 bottom figure 1) which safely break away under high wind loading to prevent damage to the supporting pole and to continue to support the banner to keep it from falling and causing injury or damage.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Feleppa's modified structure to show the steps of coupling the horizontally disposed signage support being carried out with break away couplers configured to break in response to the assertion of a predetermined wind load upon the signage because it would enable safely break away of the coupler to prevent damage to the supporting pole and to continue to support the banner to keep it from falling and causing injury or damage as taught by Johnson.

Per claim 13, Feleppa as modified shows the horizontally disposed lower signage support being carried out by providing a tensioned cable assembly.

Feleppa as modified shows all the claimed limitations. The claimed method steps of presenting merchandise would have been the obvious method steps of presenting Feleppa's merchandise.

14. Claims 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Feleppa in view of Thornton, Reilley et al as applied to claim 1 above and further in view of Wheeler.

Feleppa as modified shows all the claimed limitations except for the steps of providing two second poles each having an insertion end configured for slideable insertion to the extent of the support distance within a said sleeve of one of the two anchors, the second poles having a

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height from the surface to a second pole top greater than the overhead signage sight height, an upper banner support assembly extensible between the two second poles, removably horizontally coupling the upper banner support assembly between the two second poles adjacent the second pole tops, suspending a remotely viewable banner from the upper banner support.

Wheeler discloses removably horizontally coupling a banner between two poles adjacent the pole tops.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Feleppa's modified structure to show the steps of providing two second poles each having an insertion end configured for slideable insertion to the extent of the support distance within a said sleeve of one of the two anchors, the second poles having a height from the surface to a second pole top greater than the overhead signage sight height, an upper banner support assembly extensible between the two second poles, removably horizontally coupling the upper banner support assembly between the two second poles adjacent the second pole tops, suspending a remotely viewable banner from the upper banner support because having second poles each having an insertion end configured for slideable insertion to the extent of the support distance within a said sleeve of one of the two anchors, the second poles having a height from the surface to a second pole top greater than the overhead signage sight height, an upper banner support assembly extensible between the two second poles would have been obvious to one having ordinary skill in the art as it has been held that mere duplication of the essential working parts of a device involves only skill in the art, *St. Regis Paper Co., v. Bemis Co.* 193 USPQ 8, and having the banner removably horizontally coupling between the two poles adjacent the top would enable the easy mounting and supporting of the banner as taught by Wheeler.



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Feleppa as modified shows all the claimed limitations. The claimed method steps of presenting merchandise would have been the obvious method steps of presenting Feleppa's merchandise.

Per claim 15, Feleppa as modified inherently show two anchors adjacent the boundary locates the two anchors adjacent the entrance region.

Feleppa as modified shows all the claimed limitations. The claimed method steps of presenting merchandise would have been the obvious method steps of presenting Feleppa's merchandise.

15. Claims 18, 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Feleppa (5700102) in view of Thornton (3673720), Baumler (3471153) and Caufield (3777428).

Feleppa (figure 88) show a system comprising a plurality of first poles of first height, the poles defining a geometric pattern within a detail region boundary, each having a first top and an insertion end (the end at the bottom of the vertical posts), the pole first height establishing an overhead signage sight height from the surface to the first top, a merchandise information carrying sign suspended from adjacent the tops of the poles (the sign with FRESH PRODUCE) and extending downwardly therefrom to a lower border.

Feleppa does not show a plurality of anchors fixed beneath the surface, at least two of the anchors being mutually spaced apart a bay distance, each said anchor including vertically disposed sleeve having a support distance located below the surface and extending to an engagement surface, the insertion end of the pole inserted in supporting relationship within a select said anchor sleeve to an extent wherein the insertion end is in freely abutable contact with the sleeve engagement surface, an overhead top connector assembly fixed to each said first pole

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adjacent the first top, a plurality of upper signage support assemblies removably coupled with the overhead top connector assemblies, a plurality of merchandise information carrying signs, a retainer connection assembly fixed to each said first pole at a location defining a bay access elevation above the surface, a plurality of lower signage retainer assemblies removably coupled between retainer connector assemblies of adjacent said first poles in parallel relationship with the upper signage support assemblies, a plurality of lower couplers removably connected between the lower signage retainer assemblies and said lower border of the signs.

Thornton shows a plurality of anchors (57) fixed beneath a surface to slidably receive poles (58, 54) extended therefrom, at least two of the anchors being mutually spaced apart a bay distance (the area between the poles), each said anchor including vertically disposed sleeve having a support distance located below the surface and extending to an engagement surface, the insertion end of the poles (58, 54) inserted in supporting relationship within a select said anchor sleeve to an extent wherein the insertion end is in freely abutable contact with the sleeve engagement surface.

Baumler (figure 2) shows an overhead top connector assembly (40, 26, 28, 54) fixed to each first pole adjacent the first top, a plurality of upper signage support assemblies (cables 50) removably coupled with the overhead top connector assemblies, a retainer connection assembly (20) fixed to each said first pole at a location defining a bay access elevation above the surface, a lower signage retainer assembly (22) removably coupled between retainer connector assemblies of adjacent said first poles in parallel with the upper signage support assemblies, a lower coupler (76) removably connected between the lower signage retainer assemblies and the lower border of the sign.

Caufield (figures 7, 9, 13) shows a plurality of lower couplers (54) removably connecting the lower signage retainer assemblies and the lower border the signs.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Feleppa's structure to show a plurality of anchors fixed beneath the surface, at least two of the anchors being mutually spaced apart a bay distance, each said anchor including vertically disposed sleeve having a support distance located below the surface and extending to an engagement surface, the insertion end of the pole inserted in supporting relationship within a select said anchor sleeve to an extent wherein the insertion end is in freely abutable contact with the sleeve engagement surface, an overhead top connector assembly fixed to each said first pole adjacent the first top, a plurality of upper signage support assemblies removably coupled with the overhead top connector assemblies, a plurality of merchandise information carrying signs, a retainer connection assembly fixed to each said first pole at a location defining a bay access elevation above the surface, a plurality of lower signage retainer assemblies removably coupled between retainer connector assemblies of adjacent said first poles in parallel relationship with the upper signage support assemblies, a plurality of lower couplers removably connected between the lower signage retainer assemblies and said lower border of the signs because having a plurality of anchors fixed beneath the surface, the anchors being spaced apart a bay distance, each said anchor including vertically disposed sleeve having a support distance located below the surface and extending to an engagement surface, the insertion end of the pole inserted in supporting relationship within a select said anchor sleeve to an extent wherein the insertion end is in freely abutable contact with the sleeve engagement surface as taught by Thornton would enable the secured vertical standing of Feleppa poles against wind and

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other lateral forces, having an overhead top connector assembly fixed to each said first pole adjacent the first top, an plurality of upper signage support assemblies removably coupled with the overhead top connector assemblies, a retainer connection assembly fixed to each said first pole at a location defining a bay access elevation above the surface, a plurality of lower signage retainer assemblies removably coupled between retainer connector assemblies of adjacent said first poles in parallel relationship with the upper signage support assemblies as taught by Baumler would enable easy hanging and removal of signage therebetween, and having a plurality of signs hanging between the upper and lower support assemblies would have been obvious to one having ordinary skill in the art as it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art, *Nerwin v. Erlichman*, 168 USPQ 177, 179, having a plurality of lower couplers removably connected between the lower signage retainer assemblies and said lower border of the signs by Caufield would enable the secure fastening of the signages to the upper signage support assemblies and the lower signage retainer assemblies.

Per claim 22, Feleppa as modified shows each said sleeve engagement surface is at an elevation with respect to the paved surface selected to effect a linear alignment of the first pole tops.

16. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Feleppa (5700102) in view of Thornton (3673720), Baumler (3471153) and Caufield (3777428) as applied to claim 18 above and further in view of Wheeler (4830382) and Rodriguez (5280904).

Feleppa as modified shows all the claimed limitations except for each said upper signage support assembly comprising a cable tensioner coupled with the cable, two spaced apart spring actuated couplers manually connectable with the overhead top connector assemblies.

Wheeler shows a spring actuated coupler(66) manually connectable with the overhead top connector assembly(68) to enable easy attachment of the cable to supporting pole.

Rodriguez discloses a cable tensioner (36) coupled with a cable to tension a signage structure.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Feleppa's modified structure to show a cable tensioner coupled with the cable, two spaced apart spring actuated couplers manually connectable with the overhead top connector assemblies because having a cable tensioner coupled to the cable would enable the taut display of the signage as taught by Rodriguez, and having spring actuated couplers manually connectable with the overhead top connector assemblies would ensure easy secure fastening of the cable to the overhead top connector assembly as taught by Wheeler.

17. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Feleppa (5700102) in view of Thornton (3673720), Baumler (3471153) and Caufield (3777428) as applied to claim 18 above and further in view of Wheeler (4830382) and Rodriguez (5280904).

Feleppa as modified shows all the claimed limitations except for each said lower signage retainer assembly comprising a cable tensioner coupled with the cable, two spaced apart spring actuated couplers manually connectable with the retainer connector assemblies.

Wheeler shows a spring actuated coupler(66) manually connectable with the overhead top connector assembly(68) to enable easy attachment of the cable to supporting pole.

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Rodriguez discloses a cable tensioner (36) coupled with a cable to tension a signage structure.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Feleppa's modified structure to show each said lower signage retainer assembly comprising a cable tensioner coupled with the cable, two spaced apart spring actuated couplers manually connectable with the retainer connector assemblies because having a cable tensioner coupled to the cable would enable the taut display of the signage as taught by Rodriguez, and having spring actuated couplers manually connectable with the overhead top connector assemblies would ensure easy secure fastening of the cable to the overhead top connector assembly as taught by Wheeler.

18. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Feleppa (5700102) in view of Thornton (3673720), Baumler (3471153) and Caufield (3777428) as applied to claim 18 above and further in view of Johnson (4720204).

Feleppa as modified shows all the claimed limitations except for the lower couplers being configured to break away in response to the assertion of predetermined wind loads at the signs.

Johnson discloses lower couplers (26 bottom figure 1) which safely break away under high wind loading to prevent damage to the supporting pole and to continue to support the banner to keep it from falling and causing injury or damage.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Feleppa's modified structure to show the lower couplers being configured to break away in response to the assertion of predetermined wind loads at the signs because it would enable signs/banners to safely break away under high wind loading to prevent damage to

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the supporting pole and to continue to support the banner to keep it from falling and causing injury or damage as taught by Johnson.

19. Claims 23, 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Feleppa (5700102) in view of Thornton (3673720), Baumler (3471153) and Caufield (3777428).

Feleppa as modified further shows two said anchors being spaced apart a banner width, two second poles, each having an insertion end slideably inserted in a sleeve of one of the two anchors to an extent wherein the insertion end is in freely abutable contact with the sleeve engagement surface, the second poles extending a second pole height from the paved surface to a height equal to the first height.

Feleppa figure 84-87 shows first and second poles of different heights.

Feleppa as modified does not show the second height being greater than the first height, an upper banner connector assembly fixed to each said second pole adjacent the second top, an upper banner support assembly removably coupled with the two second poles at the upper banner connector assembly thereof, a banner removably coupled with the upper banner support assembly and extending downwardly therefrom to a lower banner edge, the second height being greater than the first height, an upper banner connector assembly fixed to each said second pole adjacent the second top, an upper banner support assembly removably coupled with the two second poles at the upper banner connector assembly thereof, a banner removably coupled with the upper banner support assembly and extending downwardly therefrom to a lower banner edge, a lower banner connector assembly fixed to each said second poles adjacent the lower banner edge, a banner retainer assembly removably coupled between the second poles at the lower

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banner connector assembly thereof, at least two said lower couplers removably connected between the banner retainer assembly and the lower banner edge.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Feleppa's modified structure to show the second height being greater than the first height, an upper banner connector assembly fixed to each said second pole adjacent the second top, an upper banner support assembly removably coupled with the two second poles at the upper banner connector assembly thereof, a banner removably coupled with the upper banner support assembly and extending downwardly therefrom to a lower banner edge, the second height being greater than the first height, an upper banner connector assembly fixed to each said second pole adjacent the second top, an upper banner support assembly removably coupled with the two second poles at the upper banner connector assembly thereof, a banner removably coupled with the upper banner support assembly and extending downwardly therefrom to a lower banner edge, a lower banner connector assembly fixed to each said second poles adjacent the lower banner edge, a banner retainer assembly removably coupled between the second poles at the lower banner connector assembly thereof, at least two said lower couplers removably connected between the banner retainer assembly and the lower banner edge because having poles with different height to show banners at different heights would have been an obvious matter of engineering design choice as the different heights would enable a designer to display information/banner to attract specific customers from different angles and directions, and having an upper banner connector assembly fixed to each said second pole adjacent the second top, an upper banner support assembly removably coupled with the two second poles at the upper banner connector assembly thereof, a banner removably coupled with the upper banner support



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assembly and extending downwardly therefrom to a lower banner edge, the second height being greater than the first height, an upper banner connector assembly fixed to each said second pole adjacent the second top, an upper banner support assembly removably coupled with the two second poles at the upper banner connector assembly thereof, a banner removably coupled with the upper banner support assembly and extending downwardly therefrom to a lower banner edge, a lower banner connector assembly fixed to each said second poles adjacent the lower banner edge, a banner retainer assembly removably coupled between the second poles at the lower banner connector assembly thereof, at least two said lower couplers removably connected between the banner retainer assembly and the lower banner edge would have been obvious to one having ordinary skill in the art as it has been held that mere duplication of the essential working parts of a device involves only skill in the art, *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Per claim 26, Feleppa as modified shows each said sleeve engagement surface of the two anchors is at an elevation with respect to the paved surface selected to affect a common elevation of the second pole second tops.

20. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Feleppa (5700102) in view of Thornton (3673720), Baumler (3471153) and Caufield (377742) as applied to claim 24 above and further in view of Johnson (4720204).

Feleppa as modified shows all the claimed limitations except for the two lower couplers being configured to break away in response to the assertion of predetermined wind loads at the signs.

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Johnson discloses lower couplers (26 bottom figure 1) which safely break away under high wind loading to prevent damage to the supporting pole and to continue to support the banner to keep it from falling and causing injury or damage.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Feleppa's modified structure to show the lower couplers being configured to break away in response to the assertion of predetermined wind loads at the signs because it would enable signs/banners to safely break away under high wind loading to prevent damage to the supporting pole and to continue to support the banner to keep it from falling and causing injury or damage as taught by Johnson.

#### ***Response to Arguments***

21. Applicant's arguments with respect to claims 1-26 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art shows different tensioning device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 703-306-9136. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, consisting of several loops and a large circular flourish at the end.

Phi Dieu Tran A

9/20/04